IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9179 OF 2004

Salim Abdul Gaffar Anware ...Petitioner

Versus

Alex Jairom D'Souza ...Respondent

.....

Mr. Chandrakant Chavan, counsel for Petitioner

Mr. P.S. Dani, counsel for Respondent.

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CORAM: B. H. MARLAPALLE, J.

DATED: 4TH MARCH, 2005

P. C.:-

1. Heard Mr. Chavan, the learned counsel for the petitioner who is one of the defendants i.e. defendant No.2 in Regular Civil Suit No.30/2000. He filed an application at Exh.97 in the said suit praying for sending three sale deeds for verifying the thumb impressions. The said application has been rejected by the learned C.J.J.D. at Murud vide his order dated 2.4.2004 and, hence this petition.

2. The trial court noted that the defendant had filed his written statement at Exh.19 and did not dispute the execution of sale deed dated 5.7.1995 between him and the defendant no.1, in addition, the respondent No.2 did not challenge the thumb

impression of defendant No.1 on another sale deed dated 18.12.1993. Even during the cross examination of the plaintiff, no such suggestion was ever made by the advocate of the defendant No.2. The evidence of the plaintiff was already closed. Under these circumstances, the trial Court held that there was no satisfactory ground for referring three sale deeds for verification of the thumb impression. The reasoning given by the trial Court cannot be termed as perverse or erroneous so as to cause interference by this Court under Article 227 of the Constitution of India.

3. Hence, the writ petition is rejected summarily.